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Press Release

FOR IMMEDIATE RELEASE

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Court Orders Johnson & Johnson to Pay Millions for Misleading WV Doctors; Attorney General McGraw States False Advertising

Brooke County Circuit Judge Martin Gaughan has ordered Johnson & Johnson and its Janssen Pharmaceutica subsidiary to pay civil penalties totaling \$4,475,000 for making false or misleading statements to West Virginia physicians about two of its products, Risperdal, an antipsychotic drug, and Duragesic, a narcotic pain patch.

The case was filed by Attorney General Darrell McGraw in 2004, and was brought under the West Virginia Consumer Protection Act, which authorizes a penalty of up to \$5,000 for each violation. At trial, the parties stipulated to the number or instances that could qualify as violations. The court assessed \$5,000 per violation where the message was delivered personally to a West Virginia doctor by a company sales representative and \$500 where the information was conveyed by letter or sales brochure. A total of 4,450 violations were found to have taken place, which would have resulted in a civil penalty of up to \$22,250,000 if the court had imposed the maximum of \$5,000 per violation.

The court notes in its order, "The defendants were twice put on notice by previous [FDA] warning letters that its promotional materials for Duragesic contained false or misleading statements; however . . . the defendants then willfully sent the false or misleading Duragesic [brochure] to West Virginia health care providers to make its medication Duragesic more appealing for sale." The order also finds, "The wording of [the defendants'] November 2003 Risperdal letter was intentionally constructed to modify the FDA's warning language and mislead healthcare professionals, who rely on this information when prescribing medication for their patients."

Attorney General Darrell McGraw said, "If the FDA has approved a drug for limited purposes and drug manufacturers, in pursuit of profit, market the drug for other purposes, it is false advertising that could put the health and lives of ordinary West Virginians at risk."

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